

Evaluating Investor Communication Touchpoints in Response to the DOL Fiduciary Rule

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Introduction

On April 6, 2016, the Department of Labor (DOL) issued a final rule defining who is a “fiduciary” under Section 3(21) of the Employee Retirement Income Security Act of 1974 and Section 4975(e)(3) of the Internal Revenue Code as a result of giving investment advice to an employee benefit plan, plan fiduciary, plan participant or beneficiary, individual retirement account (IRA), or IRA owner. As the DOL notes, the final rule treats persons who provide investment advice or recommendations, for a fee or other compensation with respect to assets of a plan or IRA, as fiduciaries in a wider array of advice relationships.¹

In advance of the final rule’s applicability date,² mutual fund complexes and intermediaries are evaluating whether certain business activities may cause them to be considered a fiduciary. Many financial intermediaries³ are preparing to serve as fiduciaries, but mutual fund back-office operations (e.g., transfer agent and call center areas that directly support investors) generally are planning to operate as non-fiduciaries. Fund complexes that choose to operate as non-fiduciaries should establish operational practices that clearly reinforce and represent their non-fiduciary status. They are encouraged to pay particular attention to their communications with investors, whether delivered via websites, telephones, voice response units, service centers, or in writing.

A fund industry working group sponsored by the Investment Company Institute (ICI) has prepared a framework to assist fund organizations with evaluating current categories of shareholder communications in response to the final rule (the framework begins on page 6 of this document).⁴ Each category of communication within the framework (e.g., fund documents, account applications and forms, correspondence, call center, website) provides questions and issues for fund complexes to consider when drafting communications and preparing training for service center employees.

¹ 81 Fed. Reg. 20946 (April 8, 2016).

² The final rule was effective June 7, 2016, but the general applicability date is April 10, 2017.

³ *Financial intermediaries* refers to broker-dealers, registered investment advisers, retirement plan recordkeepers, banks, and trust companies.

⁴ The framework was drafted under the assumption that the fund complex will operate as a non-fiduciary in response to the final rule.

Framework Scope and Organization

The framework explores communications resources for three mutual fund shareholder servicing arrangements:⁵

- » Fund-controlled with intermediary listed: Accounts with NSCC Network Level 4 or 0 (non-networked)⁶ designation and a named external intermediary (e.g., a financial intermediary not affiliated with the fund company that provides investment advice for a fee to the shareholder). The fund assumes the primary account servicing role.
- » Exclusively fund-controlled: Accounts that either do not have a named intermediary or the named intermediary is the fund's limited-purpose⁷ broker-dealer. The fund fully assumes the account servicing role.
- » Accounts outside the rule:⁸ Account types that are not subject to the final rule. Depending on their NSCC Network level or servicing arrangement, these accounts may be serviced by an intermediary or fund.

The framework is organized by the following categories:

- » Fund documents (e.g., prospectuses, statements of additional information)
- » Traditional/Roth and SEP/SIMPLE IRA documents (e.g., disclosure statements, custodial agreements)
- » ERISA and Non-ERISA plan documents (e.g., Coverdell ESA, plan documents)
- » Account setup and change documents (e.g., application, systematic investment form, rollover form)
- » Periodic/ad-hoc communications (e.g., confirmations, statements, investor correspondence)
- » Annual notifications (e.g., custodial maintenance fees, required minimum distribution [RMD] notifications)
- » Integrated voice response and call centers
- » Website/social media and marketing materials
- » Transitional mailings (e.g., communications made in order to transition investors into servicing arrangements in response to the final rule)

⁵ Fund shareholders also can be fully serviced by intermediaries acting as fiduciaries under the final rule. This arrangement is not addressed in the framework because the document's scope is on non-fiduciary operations.

⁶ "NSCC Network" refers to the National Securities Clearing Corporation's Networking service, which supports the exchange and reconciliation of investor account activity data. The Networking service is divided into three levels, with Level 3 (accounts controlled by broker-dealers) being the most common and Level 4 signifying shared broker-dealer and fund servicing and reporting. Non-networked accounts (Level 0) are fully serviced and reported upon by the fund.

⁷ At a mutual fund's discretion, its distributor may be designated as broker-dealer on accounts when an existing external intermediary relationship is terminated, either by the investor or through intermediary action. The broker-dealer is "limited purpose" in that it does not provide advice to investors. Intermediary-distributed fund companies strongly encourage investors to secure an external adviser for their investments.

⁸ Many service centers, fund documents, etc., cover both taxable and tax-deferred accounts. As a result, changes made in support of the final rule may affect taxable accounts (or other accounts not covered by the rule). In response, some fund companies are considering adoption of universal practices.

Throughout the framework, fund complexes are encouraged to review language used in print communications, in call center scripts, and on websites for communication that could be interpreted as a recommendation and to consider disclosures that reinforce their status as a non-fiduciary. Working group members suggest that intermediary-distributed fund complexes consider promoting the benefits of an adviser to their shareholders whose accounts are not currently associated with an intermediary.⁹

Additional Framework Considerations

The framework should be considered a starting point as it may not address every applicable communication touchpoint for a particular fund organization. Fund companies are encouraged to complete a full inventory of their customer interactions and make appropriate additions, adjustments, and responses to the framework. The exercise should be completed cross-functionally, with participation from all affected departments, such as legal, marketing, and other areas involved in the development of investor communication resources.

Each item within the framework is evaluated independently. Unless otherwise noted, the framework does not consider how fund complexes may use communication items in conjunction with one another. For example, an investment slip on a statement or confirmation on its own may not rise to the level of a recommendation. However, if a marketing piece is included with a statement or confirmation mailing, the combination of both pieces may lead to a different conclusion. This underscores the need for collaboration across all areas when developing the overall investor communication strategy.

⁹ Recommendation of a particular adviser could be considered a fiduciary recommendation.

Framework of Communications Touchpoints by Servicing Arrangement—DOL Fiduciary Rule Considerations

Categories	Fund-Controlled with Intermediary Listed <i>NSCC Network Level 4 or 0 (non-networked) with named intermediary. Fund assumes primary account servicing role.</i>	Exclusively Fund-Controlled <i>No named intermediary or intermediary is fund's limited purpose broker-dealer. Fund assumes account servicing role.</i>	Accounts Outside the Rule <i>Non-IRA or qualified plan retirement accounts that are not subject to fiduciary rule. May be serviced by an intermediary or fund.</i>
Fund documents			
<ul style="list-style-type: none"> » Annual/Semiannual report 	<ul style="list-style-type: none"> » Review cover letters from chairman/portfolio managers and other content for communication that could be interpreted as a recommendation. » Intermediary-distributed fund families may consider language regarding the role and/or benefits of advice. 		
<ul style="list-style-type: none"> » Prospectus » Summary prospectus » Statement of additional information 	<ul style="list-style-type: none"> » Review language for communication that could be interpreted as a recommendation. » Consider how to frame activities, such as taking unsolicited orders or answering educational questions only by phone, as not advice-related. » Consider language about the role and/or benefits of advice (for intermediary-distributed fund families). » Review definitions of affiliates/contracted parties providing services to fund shareholders (e.g., investment manager, portfolio manager, administrator, distributor, transfer agent, etc.). Those definitions may need to be refined to correctly represent relationships as a result of the DOL rule. » Update disclosure if a fund family decides to alter the types of direct-at-fund accounts it will accept (e.g., no longer opening direct-at-fund individual retirement accounts [IRAs]). » Update disclosure if a fund family decides to invoke “redeem-only” status for direct-at-fund retirement accounts without an associated intermediary. 		
<ul style="list-style-type: none"> » Proxy 	<ul style="list-style-type: none"> » Review cover letters from chairman/portfolio managers and other content for communication that could be interpreted as a recommendation. 		
<ul style="list-style-type: none"> » Required supplements 	<ul style="list-style-type: none"> » Review language for communication that could be interpreted as a recommendation. » Update disclosure if a fund family decides to alter the types of direct-at-fund accounts it will accept (e.g., no longer opening direct-at-fund IRAs). » Update disclosure if a fund family decides to invoke “redeem-only” status for direct-at-fund retirement accounts without an associated intermediary. 		

Categories	Fund-Controlled with Intermediary Listed <i>NSCC Network Level 4 or 0 (non-networked) with named intermediary. Fund assumes primary account servicing role.</i>	Exclusively Fund-Controlled <i>No named intermediary or intermediary is fund's limited purpose broker-dealer. Fund assumes account servicing role.</i>	Accounts Outside the Rule <i>Non-IRA or qualified plan retirement accounts that are not subject to fiduciary rule. May be serviced by an intermediary or fund.</i>
Traditional/Roth IRA documents			
» IRA custodial agreement	» Review language for communication that could be interpreted as a recommendation. » Consider language about the role and/or benefits of advice (for intermediary-distributed fund families). » Review definitions of affiliates/contracted parties providing services to fund shareholders (e.g., depositor, custodian, distributor, service company, sponsor). Those definitions may need to be refined to correctly represent relationships as a result of the DOL rule.		Not applicable
» IRA disclosure statement	» Review language for communication that could be interpreted as a recommendation. » Consider language about the role and/or benefits of advice (for intermediary-distributed fund families). » Review definitions of affiliates/contracted parties providing services to fund shareholders (e.g., depositor, custodian, distributor, service company, sponsor). Those definitions may need to be refined to correctly represent relationships as a result of the DOL rule. » Review applicable language about default purchase options (e.g., non-designated dollars received are placed in a money market fund) and ensure they are clearly stated. » Update disclosure if a fund family decides to invoke “redeem-only” status for direct-at-fund retirement accounts without an associated intermediary.		Not applicable
SEP/SIMPLE IRA documents			
» General considerations for employer and participant communications	» Note: SEP and SIMPLE plan documents (e.g., applications, transfers/rollovers, etc.) are often integrated with marketing-related materials. Special care must be given to ensure the combination of documents appropriately represent the fund company’s fiduciary status. » Review language for communication that could be interpreted as a recommendation. » Consider language about the role and/or benefits of advice (for intermediary-distributed fund families). » Review definitions of affiliates/contracted parties providing services to fund shareholders (e.g., depositor, custodian, distributor, service company, sponsor). » Review applicable language about default purchase options (e.g., non-designated dollars received are placed in a money market fund) and ensure they are clearly stated. » Update disclosure if a fund family decides to invoke “redeem-only” status for direct-at-fund retirement accounts without an associated intermediary.		Not applicable

Categories	Fund-Controlled with Intermediary Listed <i>NSCC Network Level 4 or 0 (non-networked) with named intermediary. Fund assumes primary account servicing role.</i>	Exclusively Fund-Controlled <i>No named intermediary or intermediary is fund's limited purpose broker-dealer. Fund assumes account servicing role.</i>	Accounts Outside the Rule <i>Non-IRA or qualified plan retirement accounts that are not subject to fiduciary rule. May be serviced by an intermediary or fund.</i>
Non-ERISA plan documents¹			
<ul style="list-style-type: none"> » Coverdell ESA 	<ul style="list-style-type: none"> » Review language for communication that could be interpreted as a recommendation. » Consider language about the role and/or benefits of advice (for intermediary-distributed fund families). » Review definitions of affiliates/contracted parties providing services to fund shareholders (e.g., depositor, custodian, distributor, service company, sponsor). » Review applicable language about default purchase options (e.g., non-designated dollars received are placed in a money market fund) and ensure they are clearly stated. » Update disclosure if a fund family decides to invoke “redeem-only” status for direct-at-fund retirement accounts without an associated intermediary. 	Not applicable	
ERISA/tax-qualified plan documents (prototype 401(k), 403(b), etc.)			
<ul style="list-style-type: none"> » General considerations for employer, plan sponsor and participant communications 	<ul style="list-style-type: none"> » Note: Qualified plan documents (e.g., applications, transfers/rollovers, etc.) are often integrated with marketing-related materials. Special care must be given to ensure the combination of documents appropriately represent the fund company's fiduciary status. » Review definitions of affiliates/contracted parties included in related sponsor and plan participant documents. Those definitions may need to be refined to correctly represent relationships as a result of the DOL rule. 	Not applicable	

¹ Health savings accounts (HSAs), Archer medical savings accounts (MSAs), Single 401(k), and Keogh plans are also included, but not addressed, in this category.

Categories	Fund-Controlled with Intermediary Listed <i>NSCC Network Level 4 or 0 (non-networked) with named intermediary. Fund assumes primary account servicing role.</i>	Exclusively Fund-Controlled <i>No named intermediary or intermediary is fund's limited purpose broker-dealer. Fund assumes account servicing role.</i>	Accounts Outside the Rule <i>Non-IRA or qualified plan retirement accounts that are not subject to fiduciary rule. May be serviced by an intermediary or fund.</i>
Account setup/Change documents	<ul style="list-style-type: none"> » Disclosure: Add or revise language to disclose fund company's status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call your financial adviser for advice). » Shareholder certification: Add language to signature section that shareholders understand they are not receiving advice from the fund complex. » Financial adviser references: Ensure section and/or references are appropriate.² » Product/fund list: Ensure appropriate products are incorporated, reflecting product rationalization, share class updates, etc. » Product features/services: Ensure features/services included are relevant to the product/share class (e.g., rights of accumulation [ROA], letter of intent [LOI], exchangeability). » Self-service options: Consider promoting use of website to open accounts. 	<ul style="list-style-type: none"> » Disclosure: Add or revise language to disclose fund company's status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call your financial adviser for advice). » Shareholder certification: Add language to signature section that shareholders understand that they are not receiving advice from the fund complex. » Financial adviser references: Remove or revise language defaulting to limited-purpose broker-dealer of fund; incorporate language regarding the role and/or benefits of advice.² » Product/fund list: Ensure appropriate products are incorporated, reflecting product rationalization, share class updates, etc. » Product features/services: Ensure features/services included are relevant to the product/share class (e.g., rights of accumulation [ROA], letter of intent [LOI], exchangeability). » Self-service options: Consider promoting use of website to open accounts. 	<ul style="list-style-type: none"> » Product/fund list: Ensure appropriate products are incorporated, reflecting product rationalization, share class updates, etc. » Product features/services: Ensure features/services included are relevant to the product/share class (e.g., rights of accumulation [ROA], letter of intent [LOI], exchangeability). » Disclosure: To be consistent with ERISA products, consider explicitly stating that the fund company does not offer advice on taxable accounts.
» Beneficiary add or update on existing retirement account	<ul style="list-style-type: none"> » Review language for communication that could be interpreted as a recommendation. » Add or revise disclosure language for fund company's status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call your financial adviser for advice). 		Not applicable

² Consider process/procedures around dealer changes under DOL rule (e.g., whether broker needs to approve change/addition first).

Categories	Fund-Controlled with Intermediary Listed	Exclusively Fund-Controlled	Accounts Outside the Rule
	<i>NSCC Network Level 4 or 0 (non-networked) with named intermediary. Fund assumes primary account servicing role.</i>	<i>No named intermediary or intermediary is fund's limited purpose broker-dealer. Fund assumes account servicing role.</i>	<i>Non-IRA or qualified plan retirement accounts that are not subject to fiduciary rule. May be serviced by an intermediary or fund.</i>
» Death distribution	<ul style="list-style-type: none"> » Review language for communication that could be interpreted as a recommendation. » Add or revise disclosure language for fund company's status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call your financial adviser for advice). » Update disclosure if a fund family decides to require new IRAs to designate an intermediary, as this could affect decedent IRAs. » Consider whether forms distribution should change (e.g., provide only after affirmative acknowledgement by the requestor of the fund's status as a non-fiduciary in response to the DOL rule). 	Not applicable	
» Excess contribution	<ul style="list-style-type: none"> » Review language for communication that could be interpreted as a recommendation. » Add or revise disclosure language for fund company's status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call your financial adviser for advice). » Consider whether forms distribution should change (e.g., provide only after affirmative acknowledgement by the requestor of the fund's status as a non-fiduciary in response to the DOL rule). » Consider a separate excess contribution form from other retirement distribution types to address the unique considerations of tax year, over-contribution amount, and fund(s) available to receive the returned amount. 	Not applicable	
» Intermediary change to a different intermediary (initiated by investor)	<ul style="list-style-type: none"> » Evaluate whether submitted forms should include evidence of acceptance from the new intermediary.³ » Review language for communication that could be interpreted as a recommendation. » Add or revise disclosure language for fund company's status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call your financial adviser for advice). 	» Need to consider whether a consistent response to DOL-eligible accounts is needed for taxable accounts outside the rule.	
» Intermediary resignation (firm-initiated)	<ul style="list-style-type: none"> » The Intermediary Resignations subgroup of the ICI Operations Back-Office Working Group outlined a series of communications considerations⁴ for resignations initiated by the intermediary as broker-dealer of record and/or IRA/plan custodian. It is critical that all affected parties coordinate efforts to ensure proper notification to investors and compliance with successor custodian designations, if applicable. 	» Need to consider whether a consistent response to DOL-eligible accounts is needed for taxable accounts outside the rule.	

³ A change of intermediary may create a conflict of interest for the new intermediary, due to business decisions regarding allowable servicing models or share classes in response to the DOL rule. The possible conflict of interest can be avoided by the new intermediary indicating its acceptance of the customer's position, before the fund processes the request.

⁴ Refer to *Operational Process Flows and Considerations Related to Dealer/Custodian Resignations in Response to the Fiduciary Rule*, posted to the ICI DOL Fiduciary Rule Resource Center.

Categories	Fund-Controlled with Intermediary Listed	Exclusively Fund-Controlled	Accounts Outside the Rule
	<i>NSCC Network Level 4 or 0 (non-networked) with named intermediary. Fund assumes primary account servicing role.</i>	<i>No named intermediary or intermediary is fund's limited purpose broker-dealer. Fund assumes account servicing role.</i>	<i>Non-IRA or qualified plan retirement accounts that are not subject to fiduciary rule. May be serviced by an intermediary or fund.</i>
» Intermediary resignation without designation of another intermediary (initiated by investor)	<ul style="list-style-type: none"> » Review language for communication that could be interpreted as a recommendation. » Add or revise disclosure language for fund company's status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call your financial adviser for advice). » Consider language about the role and/or benefits of advice (for intermediary-distributed fund families). » Update disclosure if a fund family decides to invoke "redeem-only" status for direct-at-fund retirement accounts without an associated intermediary. 		» Need to consider whether a consistent response to DOL-eligible accounts is needed for taxable accounts outside the rule.
» Listbills/Rosters	<ul style="list-style-type: none"> » Review language for communication that could be interpreted as a recommendation. » Add or revise disclosure language for fund company's status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call your financial adviser for advice). » Ensure product/fund list are appropriate, reflecting product rationalization, share class updates, etc. 		Not applicable
<ul style="list-style-type: none"> » Normal distribution » Roth conversion » IRA recharacterization 	<ul style="list-style-type: none"> » Review language for communication that could be interpreted as a recommendation. » Add or revise disclosure language for fund company's status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call your financial adviser for advice). » Consider whether forms distribution should change (e.g., provide only after affirmative acknowledgement by the requestor of the fund's status as a non-fiduciary in response to the DOL rule). 		Not applicable

Categories	Fund-Controlled with Intermediary Listed	Exclusively Fund-Controlled	Accounts Outside the Rule
» Plan enrollment form ⁵	<i>NSCC Network Level 4 or 0 (non-networked) with named intermediary. Fund assumes primary account servicing role.</i>	<i>No named intermediary or intermediary is fund's limited purpose broker-dealer. Fund assumes account servicing role.</i>	<i>Non-IRA or qualified plan retirement accounts that are not subject to fiduciary rule. May be serviced by an intermediary or fund.</i>
	<ul style="list-style-type: none"> » Disclosure: Add or revise language to disclose fund company's status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call your financial adviser for advice). » Shareholder certification: Add language to signature section that shareholders understand they are not receiving advice from the fund complex. » Financial adviser references: Ensure section and/or references are appropriate.⁶ » Product/fund list: Ensure appropriate products are incorporated, reflecting product rationalization, share class updates, etc. » Product features/services: Ensure features/services included are relevant to the product/share class (e.g., rights of accumulation [ROA], letter of intent [LOI], exchangeability). 	<ul style="list-style-type: none"> » Disclosure: Add or revise language to disclose fund company's status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call your financial adviser for advice). » Shareholder certification: Add language to signature section that shareholders understand that they are not receiving advice from the fund complex. » Financial adviser references: Remove or revise language defaulting to limited-purpose broker-dealer of fund; incorporate language regarding the role and/or benefits of advice.⁶ » Product/fund list: Ensure appropriate products are incorporated, reflecting product rationalization, share class updates, etc. » Product features/services: Ensure features/services included are relevant to the product/share class (e.g., rights of accumulation [ROA], letter of intent [LOI], exchangeability). 	Not applicable
» Plan rebalance ⁷	<ul style="list-style-type: none"> » Review language for communication that could be interpreted as a recommendation. » Add or revise disclosure language for fund company's status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call your financial adviser for advice). 	Not applicable	

⁵ Note: There may be two types of plan enrollment forms: one for the plan sponsor and one for plan participants.

⁶ Consider process/procedures around dealer changes under DOL rule (e.g., whether the broker needs to approve change/addition first).

⁷ Plan rebalance instructions often are received by the fund from a retirement plan or intermediary, either of which may act as a DOL rule fiduciary.

Categories	Fund-Controlled with Intermediary Listed	Exclusively Fund-Controlled	Accounts Outside the Rule
<ul style="list-style-type: none"> » Plan-to-plan or IRA transfer of assets: incoming⁸ » Direct rollover: incoming 	<i>NSCC Network Level 4 or 0 (non-networked) with named intermediary. Fund assumes primary account servicing role.</i>	<i>No named intermediary or intermediary is fund's limited purpose broker-dealer. Fund assumes account servicing role.</i>	<i>Non-IRA or qualified plan retirement accounts that are not subject to fiduciary rule. May be serviced by an intermediary or fund.</i>
<ul style="list-style-type: none"> » Prototype plan kit 	<p>Note: Prototype IRA plan documents (e.g., applications, transfer/rollover forms, custodial agreements, disclosure statements, etc.) are often integrated with marketing-related materials. Special care must be given to ensure the combination of documents appropriately represent the fund company's fiduciary status.</p> <ul style="list-style-type: none"> » Refer to each document type included in the prototype plan kit for considerations in response to the DOL rule. 		Not applicable
<ul style="list-style-type: none"> » Required minimum distribution (RMD) form⁹ 	<ul style="list-style-type: none"> » Review language for communication that could be interpreted as a recommendation. » Add or revise disclosure language for fund company's status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call your financial adviser for advice). » Consider whether forms distribution should change (e.g., provide only after affirmative acknowledgement by the requestor of the fund's status as a non-fiduciary in response to the DOL rule). » Evaluate whether any information provided on the form could be construed as a recommendation as defined by the DOL rule. Information may include descriptions of supported RMD calculation methods, distribution frequencies, allocations across IRA investments, and possible reinvestment of distributions into a taxable account. 		Not applicable

⁸ Outgoing transfers and rollovers are the concern of the receiving party.

⁹ The RMD is drawn based on certain age and other demographic considerations. Investors can choose how, when, and from which IRA to take a distribution. Funds have traditionally offered assistance to investors when setting up RMDs with sample calculations and establishing systematic withdrawal plans.

Categories	Fund-Controlled with Intermediary Listed <i>NSCC Network Level 4 or 0 (non-networked) with named intermediary. Fund assumes primary account servicing role.</i>	Exclusively Fund-Controlled <i>No named intermediary or intermediary is fund's limited purpose broker-dealer. Fund assumes account servicing role.</i>	Accounts Outside the Rule <i>Non-IRA or qualified plan retirement accounts that are not subject to fiduciary rule. May be serviced by an intermediary or fund.</i>
» Systematic transaction authorization or change	<ul style="list-style-type: none"> » Review language for communication that could be interpreted as a recommendation. » Add or revise disclosure language for fund company's status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call your financial adviser for advice). » Consider whether forms should disclose that a change (amount, frequency) to a systematic transaction after the applicability date should be discussed with the investor's adviser, as it could revoke DOL grandfathered compensation status on a go-forward basis. » Consider a separate systematic transaction form for DOL rule-eligible accounts that incorporates related disclosures. 	Not applicable	
» Welcome letter (after account opening)	<ul style="list-style-type: none"> » Note: Letters are often provided to new investors to confirm account setup details, privileges, and contact information. » Review language for communication that could be interpreted as a recommendation. » Consider language about the role and/or benefits of advice (for intermediary-distributed fund families). » Educate investors on using self-service options such as the website or integrated voice response. 	» Evaluate whether the same welcome letter can apply to both tax-deferred and taxable accounts.	
Periodic/Ad-hoc communications			
» Account maintenance confirmation	<ul style="list-style-type: none"> » Review language for communication that could be interpreted as a recommendation. » Add or revise disclosure language for fund company's status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call your financial adviser for advice). » Consider language about the role and/or benefits of advice (for intermediary-distributed fund families). » Evaluate language sent when confirming an intermediary resignation to potentially reinforce non-fiduciary status and clarify that any ongoing financial transaction activity is unsolicited by the fund. » Determine the impact to intermediary confirmations, if applicable, especially in response to a change of intermediary or change to systematic transaction amount or frequency.¹⁰ 	» Consider whether a consistent response to DOL-eligible accounts is needed for taxable accounts outside the rule.	

¹⁰ Virtually all funds and intermediaries have eliminated intermediary copies of printed statements/confirmations, instead providing those details through file feeds and electronic access.

Categories	Fund-Controlled with Intermediary Listed	Exclusively Fund-Controlled	Accounts Outside the Rule
	<i>NSCC Network Level 4 or 0 (non-networked) with named intermediary. Fund assumes primary account servicing role.</i>	<i>No named intermediary or intermediary is fund's limited purpose broker-dealer. Fund assumes account servicing role.</i>	<i>Non-IRA or qualified plan retirement accounts that are not subject to fiduciary rule. May be serviced by an intermediary or fund.</i>
» Email communications with participants/shareholders ¹¹	<ul style="list-style-type: none"> » Review email templates for communication that could be interpreted as a recommendation. » Add or revise disclosure language for fund company's status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call your financial adviser for advice). » Consider language about the role and/or benefits of advice (for intermediary-distributed fund families). » Determine whether additional training is needed for free-form email writers on permissible language. » Evaluate how links within and attachments to emails may affect disclosure or inadvertently create a recommendation. » Assess whether, as a courtesy, funds may keep listed intermediaries apprised of shareholder correspondence where future action could potentially affect account status as a result of the DOL rule. 		Not applicable
<ul style="list-style-type: none"> » General client correspondence ("how to," answer inquiries, etc.)¹¹ » Correspondence: rollovers, transfer of assets¹¹ 	<ul style="list-style-type: none"> » Review letter templates for communication that could be interpreted as a recommendation. » Add or revise disclosure language for fund company's status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call your financial adviser for advice). » Consider language about the role and/or benefits of advice (for intermediary-distributed fund families). » Determine whether additional training is needed for free-form letter writers on permissible language. » Reassess the correspondence review process, especially free-form correspondence or topics where DOL rule compliance is more complex or less clear-cut (e.g., plan/IRA rollovers or IRA transfers of assets). » Evaluate modifications to stationery to incorporate a standard paragraph or "backer" to stationery with DOL rule-related disclosures. » Assess whether, as a courtesy, funds may keep listed intermediaries apprised of shareholder correspondence where future action could potentially affect account status as a result of the DOL rule. 		Not applicable

¹¹ Client correspondence, whether by letter or email, typically addresses procedural steps or missing legal documents to complete a transaction. Standard (pre-written) paragraph templates are often used to expedite and standardize communication. More experienced representatives may draft free-form correspondence to address nonstandard situations.

Categories	Fund-Controlled with Intermediary Listed	Exclusively Fund-Controlled	Accounts Outside the Rule
	<i>NSCC Network Level 4 or 0 (non-networked) with named intermediary. Fund assumes primary account servicing role.</i>	<i>No named intermediary or intermediary is fund's limited purpose broker-dealer. Fund assumes account servicing role.</i>	<i>Non-IRA or qualified plan retirement accounts that are not subject to fiduciary rule. May be serviced by an intermediary or fund.</i>
<ul style="list-style-type: none"> » Communication before the compliance date to participants and shareholders affected by the DOL rule 	<p>Note: Accounts covered by the DOL rule can be broadly categorized as follows: (1) accounts with an existing intermediary relationship that will not change; (2) accounts where the existing intermediary is resigning; and (3) accounts without an existing intermediary relationship. Fund companies may wish to customize messaging and disclosures (e.g., correspondence, statement or confirmation inserts/ messages) to different categories of investors, such as those with tax-deferred accounts or with the fund's default broker-dealer on the account.</p> <p>(1) Existing intermediary relationship remains on the account, after the applicability date</p> <ul style="list-style-type: none"> » Fund companies may benefit from understanding the intermediary's DOL rule-related communication plan with investors, to assist funds in their primary account servicing role for the account. <p>(2) Existing intermediary is resigning from the account</p> <ul style="list-style-type: none"> » The Intermediary Resignations subgroup of the ICI Operations Back-Office Working Group outlined a series of communications considerations¹² for resignations initiated by the intermediary as broker-dealer of record and/or IRA/plan custodian. It is critical that all affected parties coordinate efforts to ensure proper notification to investors and compliance with successor custodian designations, if applicable. » When the fund's limited-purpose broker-dealer is assigned as broker-dealer of record to the account <ul style="list-style-type: none"> » Consider communication to the shareholder about the role and/or benefits of advice. » Notify investors if a fund family decides to invoke "redeem-only" or other restricted transaction status for direct-at-fund retirement accounts without an associated intermediary. <p>(3) Accounts without an existing intermediary relationship</p> <ul style="list-style-type: none"> » Assess the benefit of proactive communication, because these accounts do not benefit from adviser communications. <ul style="list-style-type: none"> » Consider communication to the shareholder about the role and/or benefits of advice. » Communicate the services that the fund can (and/or cannot) provide, especially in response to the DOL rule (e.g., fund company does not offer advice). » Notify investors if a fund family decides to invoke "redeem-only" or other restricted transaction status for direct-at-fund retirement accounts without an associated intermediary. 	<p>Not applicable</p>	

¹² Refer to *Operational Process Flows and Considerations Related to Dealer/Custodian Resignations in Response to the Fiduciary Rule*, posted to the ICI DOL Fiduciary Rule Resource Center.

Categories	Fund-Controlled with Intermediary Listed	Exclusively Fund-Controlled	Accounts Outside the Rule
	<i>NSCC Network Level 4 or 0 (non-networked) with named intermediary. Fund assumes primary account servicing role.</i>	<i>No named intermediary or intermediary is fund's limited purpose broker-dealer. Fund assumes account servicing role.</i>	<i>Non-IRA or qualified plan retirement accounts that are not subject to fiduciary rule. May be serviced by an intermediary or fund.</i>
» Transaction confirmations and periodic statements	<ul style="list-style-type: none"> » Review language for communication that could be interpreted as a recommendation. » Add or revise disclosure language for fund company's status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call your financial adviser for advice). » Consider language about the role and/or benefits of advice (for intermediary-distributed fund families). » Determine use of inserts (e.g., "buck" slips, additional mailers) and "in-line" printed messages included with confirmations and statements. » Consider what materials may be included with an investment slip¹³ to avoid creating a recommendation. » Evaluate use of the confirmation/statement "backer" (i.e., back page or reverse side of the confirmation and statement) in communicating disclosure or other information in response to the DOL rule. » Consider the DOL rule impact to consolidated statements that may include both tax-deferred and taxable accounts. » Determine the impact to intermediary confirmation/statement¹⁴ production, if applicable. 	<ul style="list-style-type: none"> » Consider whether a consistent response to DOL-eligible accounts is needed for taxable accounts outside the rule. » Often, investors receive a consolidated statement with tax-exempt and taxable accounts listed on the same document. 	
Annual notifications			
» Custodial maintenance fee	<p>Note: Custodial maintenance fee communication may occur through stand-alone mailing, statement message, or insert.</p> <ul style="list-style-type: none"> » Review for communication that could be interpreted as a recommendation. » Add or revise disclosure language for fund company's status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call your financial adviser for advice). 	Not applicable	
<ul style="list-style-type: none"> » Pension withholding form » Tax forms for reporting contributions and distributions 	<ul style="list-style-type: none"> » Standardized regulatory form; no DOL rule impact anticipated. » Funds sometimes provide tax guides with various tax form mailings, which should be reviewed for communication that could be interpreted as a recommendation. 	Not applicable	
» Required minimum distribution (RMD) notification(s)	<p>Note: Funds most commonly have provided annual RMD notifications by letter. If an RMD form is also used, fund organizations may choose to use the form as the primary correspondence, with a cover letter explaining the mailing's purpose.</p> <ul style="list-style-type: none"> » See "Account setup/change documents: required minimum distribution (RMD)" for additional comments. 	Not applicable	

¹³ A check-sized form with pre-populated fund/account information in magnetic ink (i.e., MICR) that is used to automate processing of subsequent investments received by check.

¹⁴ Virtually all funds and intermediaries have eliminated intermediary copies of printed statements/confirmations, instead providing those details through file feeds and electronic access.

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Integrated voice response (IVR) <i>(also known as voice response unit, or VRU)</i>			
» General capabilities	<ul style="list-style-type: none"> » Evaluate IVR strategy (e.g., use of blended vs. dedicated tax-deferred or taxable account servicing phone lines) and system capabilities, as they may determine disclosure language for IVR scripts regarding DOL rule implications. » Review phone queue messages and recorded announcements for appropriate content in response to the DOL rule. 		» Shared technology may require a consistent response for taxable and DOL-eligible accounts.
» Account inquiry	» No DOL rule impact is expected. User input dictates the call's progression, and information shared is simply factual data about the investor's account(s).		» Shared technology may require a consistent response for taxable and DOL-eligible accounts.
» Transaction capabilities	<ul style="list-style-type: none"> » Review phone queue messages and recorded announcements for appropriate content. For example, a fund may consider adding messages about the fund's fiduciary status, or the fact that the transaction is unsolicited, before granting transaction processing access to an investor. » Evaluate the transaction types that can be processed via self-service channels such as IVR (e.g., systematic transaction maintenance, purchase, or redemption). 		» Shared technology may require a consistent response for taxable and DOL-eligible accounts.
Call center¹⁵			
» Call recording and call/document retention	» Assess call recordings and call center training materials retention procedures and modify if needed. Factors to consider include the role of such items with regard to staff training and the ability to respond to questions about action taken by call center representatives in the context of the DOL rule.		» Not applicable (although shared technology may require consistent policies and procedures for taxable and DOL-eligible accounts).
» Inquiry	<ul style="list-style-type: none"> » Determine the role of call center scripts and write/review/update those in response to the DOL rule. » Evaluate training materials and programs for completeness. Areas to consider include permissible call topics; redirecting callers/conversations when required; use of scripts or standard disclosure language within a call; online help, intranet, and website tools; when to transfer calls to secondary call centers; training call overflow representatives. » Review phone queue messages, recorded announcements, and standard verbal disclosures for appropriate content. » Assess call monitoring strategies to ensure DOL rule compliance; change as necessary. 		» Consider whether a consistent response to DOL-eligible accounts is needed for taxable accounts outside the rule.

¹⁵ Funds may consider pre-DOL rule call monitoring to identify call scenarios that need to be addressed by post-DOL rule scripting, and amended policies and procedures.

Categories	Fund-Controlled with Intermediary Listed <i>NSCC Network Level 4 or 0 (non-networked) with named intermediary. Fund assumes primary account servicing role.</i>	Exclusively Fund-Controlled <i>No named intermediary or intermediary is fund's limited purpose broker-dealer. Fund assumes account servicing role.</i>	Accounts Outside the Rule <i>Non-IRA or qualified plan retirement accounts that are not subject to fiduciary rule. May be serviced by an intermediary or fund.</i>
» Literature fulfillment	» Review literature fulfillment call procedures regarding permissible topics to discuss and when it may be appropriate to transfer a call back to the main call center for additional servicing. » Understand how literature fulfillment calls are received. Ensure that calls are recorded and retained in accordance with the fund's policies.		» Consider whether a consistent response to DOL-eligible accounts is needed for taxable accounts outside the rule.
» Rollover-specific	» Consider limiting conversation to be strictly educational on the operational and legal requirements to complete a rollover. Fund selection questions must be carefully addressed so as not to be construed as advice/constitute a recommendation if acted upon by the investor.		» Consider whether a consistent response to DOL-eligible accounts is needed for taxable accounts outside the rule.
» Transaction processing	» Review phone queue messages, recorded announcements, and standard verbal disclosures for appropriate content. For example, a fund may consider communicating its fiduciary status, or the fact that the transaction is unsolicited, before receiving an investor's transaction instructions. » Evaluate allowable transactions to be processed through the call center. Some organizations may encourage use of self-service channels such as IVR or website.		» Consider whether a consistent response to DOL-eligible accounts is needed for taxable accounts outside the rule.
Website/Social media¹⁶			
» General	» Review language for communication that could be interpreted as a recommendation. » Add or revise disclosure language for fund company's status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call your financial adviser for advice). » Consider language about the role and/or benefits of advice (for intermediary-distributed fund families). » Evaluate website navigation across the fund's entire web presence (e.g., retail [taxable], retirement, plan, adviser, and institutional) for unintended DOL rule impact. » Inventory websites resources/collateral for appropriateness under the DOL rule. » Assess the social media presence and strategy for tweets, posts, blogs, etc., in response to the DOL rule to reduce the possibility that social media content could be construed as offering advice.		Not applicable (although may be included due to shared technology)

¹⁶ The fund's social media presence is typically the responsibility of sales/marketing or corporate communications, but it may have an investor impact felt by fund operations/transfer agent.

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» Calculators/Planning tools	<ul style="list-style-type: none"> » Review language for communication that could be interpreted as a recommendation. » Add or revise disclosure language for fund company's status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call your financial adviser for advice). » Consider language about the role and/or benefits of advice (for intermediary-distributed fund families). » Evaluate tool and calculator capabilities to ensure their configuration or conclusions reached do not constitute a recommendation. For example, a sample asset allocation tool that only includes a portion of the fund's products, or whose results can be automatically converted into rebalancing transactions for a 401(k) plan participant, may constitute a recommendation under the DOL rule. 		Not applicable (although may be included due to shared technology)
» Shareholder/Participant inquiry	<ul style="list-style-type: none"> » Review language for communication that could be interpreted as a recommendation. » Add or revise disclosure language for fund company's status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call your financial adviser for advice). » Consider language about the role and/or benefits of advice (for intermediary-distributed fund families). 		Not applicable (although may be included due to shared technology)
» Shareholder/Participant transactions	<ul style="list-style-type: none"> » Review language for communication that could be interpreted as a recommendation. » Add or revise disclosure language for fund company's status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call your financial adviser for advice). » Consider language about the role and/or benefits of advice (for intermediary-distributed fund families). » Determine if web screen messages, pop-up boxes, or other callouts could record the investor's understanding that their transaction is unsolicited, and was not the result of advice rendered by the fund. » Evaluate the transaction types that can be processed via self-service channels such as the website (e.g., systematic transaction maintenance, purchase, or redemption). 		Not applicable (although may be included due to shared technology)

Categories	Fund-Controlled with Intermediary Listed <i>NSCC Network Level 4 or 0 (non-networked) with named intermediary. Fund assumes primary account servicing role.</i>	Exclusively Fund-Controlled <i>No named intermediary or intermediary is fund's limited purpose broker-dealer. Fund assumes account servicing role.</i>	Accounts Outside the Rule <i>Non-IRA or qualified plan retirement accounts that are not subject to fiduciary rule. May be serviced by an intermediary or fund.</i>
Marketing materials/social media			
<ul style="list-style-type: none"> » General consideration of impact to operations areas 	<p>NOTE: The DOL rule includes an exclusion for general education resources from being considered fiduciary communications.</p> <ul style="list-style-type: none"> » Operations materials are often incorporated into various “kits”—ERISA/non-ERISA plan (e.g., 401(k), 403(b), 457, health savings, etc.), IRA, SEP, SIMPLE, new customer welcome, etc. Refer to those sections for additional considerations. » Review language for communication that could be interpreted as a recommendation. » Add or revise disclosure language for fund company’s status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call your financial adviser for advice). » Consider language about the role and/or benefits of advice (for intermediary-distributed fund families). » Ensure that operations is coordinating with marketing on plans (timing, content, etc.) for revisions to materials. » Assign responsibility within operations to replace existing copies of materials as soon as available. Materials may be held in small supply for training and education purposes, or for one-off fulfillment or mailing requests. 	Not applicable	
<ul style="list-style-type: none"> » Asset allocation–related » Portfolio construction 	<ul style="list-style-type: none"> » Ensure that operations is coordinating with marketing on plans (timing, content, etc.) for revisions to materials. » Work with fund legal to categorize materials as education versus advice under the rule. Education-only materials require no modification. Materials may benefit from specific language stating the material is for educational purposes only. 	Not applicable	
<ul style="list-style-type: none"> » Newsletters and other periodic communications 	<ul style="list-style-type: none"> » Consider use of newsletters as education on the DOL rule and how the rule affects investors. » Review language for communication that could be interpreted as a recommendation. » Add or revise disclosure language for fund company’s status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call your financial adviser for advice). » Consider language about the role and/or benefits of advice (for intermediary-distributed fund families). 	Not applicable	

Categories	Fund-Controlled with Intermediary Listed <i>NSCC Network Level 4 or 0 (non-networked) with named intermediary. Fund assumes primary account servicing role.</i>	Exclusively Fund-Controlled <i>No named intermediary or intermediary is fund's limited purpose broker-dealer. Fund assumes account servicing role.</i>	Accounts Outside the Rule <i>Non-IRA or qualified plan retirement accounts that are not subject to fiduciary rule. May be serviced by an intermediary or fund.</i>
Transitional mailings			
» Accounts without an intermediary (pre-rule) ¹⁷	<ul style="list-style-type: none"> » Educate investors about the role of financial advisers and/or benefits of advice, and encourage them to select a financial intermediary. » Share links or information about educational resources for use by investors to research advice models and to locate an adviser (e.g., FINRA BrokerCheck, Certified Financial Planner, etc.). » Help investors without an intermediary understand the impact of the DOL fiduciary rule, especially because they will not have an adviser helping with their understanding. » Disclose the fund company's status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call the plan sponsor or consult a broker for advice). 	» An educational piece may also benefit taxable accounts without an intermediary.	
» Accounts without an intermediary (post-rule) ¹⁸	<ul style="list-style-type: none"> » Educate investors about the role of financial advisers and/or benefits of advice, and encourage them to select a financial intermediary. » Share links or information about educational resources for use by investors to research advice models and to locate an adviser (e.g., FINRA BrokerCheck, Certified Financial Planner, etc.). » Help investors without an intermediary understand the impact of the DOL fiduciary rule, especially because they will not have an adviser helping with their understanding. » Disclose the fund company's status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call the plan sponsor or consult a broker for advice). » Consider developing standard language for call centers and investor correspondence in response to investors who ask the fund to recommend a financial adviser. Funds may direct investors to educational resources for assistance. 		

¹⁷ Long-standing accounts at the fund without a designated external intermediary (i.e., not the fund's limited-purpose broker-dealer), as opposed to accounts where an intermediary recently resigned in response to the DOL rule.

¹⁸ Includes all categories of accounts without intermediaries (e.g., long-standing accounts, where an intermediary recently resigned in response to the DOL rule).

Categories	Fund-Controlled with Intermediary Listed	Exclusively Fund-Controlled	Accounts Outside the Rule
» Business/Support model changes	NSCC Network Level 4 or 0 (non-networked) with named intermediary. Fund assumes primary account servicing role.	No named intermediary or intermediary is fund's limited purpose broker-dealer. Fund assumes account servicing role.	Non-IRA or qualified plan retirement accounts that are not subject to fiduciary rule. May be serviced by an intermediary or fund.
» Educational: rollover guide	<p>Note: A rollover guide should provide detail on the operational steps necessary to execute a rollover. Existing language that may be construed as a recommendation should be reviewed for modification and/or removal.</p> <ul style="list-style-type: none"> » Review language for communication that could be interpreted as a recommendation. » Add or revise disclosure language for fund company's status as a non-fiduciary in response to the DOL rule (e.g., fund company does not offer advice; call your financial adviser for advice). » Consider language about the role and/or benefits of advice (for intermediary-distributed fund families). » Describing the tax treatment of direct vs. indirect rollover would not, on its face, be construed as advice. 	Not applicable	
<ul style="list-style-type: none"> » Expectations for intermediary resignation communications (fund to intermediary) » Intermediary resigning as custodian on IRAs » Intermediary resigning as custodian on ERISA plans 	<ul style="list-style-type: none"> » The Intermediary Resignations subgroup of the ICI Operations Back-Office Working Group outlined a series of communications considerations¹⁹ for resignations initiated by the intermediary as IRA/plan custodian. It is critical that all affected parties coordinate efforts to ensure proper notification to investors and compliance with successor custodian designations, if applicable. 	Not applicable	

¹⁹ Refer to *Operational Process Flows and Considerations Related to Dealer/Custodian Resignations in Response to the Fiduciary Rule*, posted to the ICI DOL Fiduciary Rule Resource Center.



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